

NEBRASKA NATURAL RESOURCES COMMISSION

MEETING MINUTES – May 17, 2018

Roll Call:

Commissioners		Absent	Present	Commissioners		Absent	Present
Amen	Karen		X	Rains	Darrell M.		X
Anderson	Garry	X		Reynolds	Michael (Mick)		X
Barels	Brian		X	Schroer	Lyle		X
Batie	Donald		X	Shields	Jim		X
Clouse	Stan		X	Smathers	Scott		X
Czaplewski	Mark		X	Smith	Lindsey		X
Deines	Dave		X	Steffen	Jeff	X	
Dunbar	Brad		X	Strauch	Walter Dennis		X
Fornoff	Kevin		X	Sugden	Steven		X
Hadenfeldt	N. Richard		X	Taylor	Loren		X
Halligan	Bill		X	Thompson	Jim		X
Knutson	Thomas		X	Wilke	Greg		X
Kraus	Don		X	Wright	Chad	X	
Ag Business	Vacant						

DNR staff in attendance:

Kent Zimmerman, LeRoy Sievers, Tim Freed and Jill Richters.

Others in attendance were:

Crystal Powers, UNL; Dustin Wilcox, NARD; Eric Gottschalk, LPNNRD; Joanna Pope, NRCS; Rachael Herpel, UNL and Tom Mountford, LPNNRD.

CALL TO ORDER, ROLL CALL

Chairman Strauch called the meeting to order at 1:00 p.m. in the Holiday Inn & Convention Center, Kearney, Nebraska, and asked Zimmerman to call the roll.

NOTICE OF THE MEETING

Notice of the meeting was published on the State Public Meetings Calendar and on the Natural Resources Commission web site at <https://nrc.nebraska.gov>. A copy of Nebraska’s open meeting statutes was available in the room.

MINUTES

Czaplewski moved and Smathers seconded the motion to approve the minutes of the February 21, 2018, Commission meeting.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen			X		Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines			X		Steffen				X
Dunbar			X		Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan			X		Thompson	X			
Knutson			X		Wilke	X			
Kraus	X				Wright				X
					TOTALS	18	0	5	3

PUBLIC COMMENTS

Chairman Strauch opened the floor for public comments, Joanna Pope, NRCS, described an upcoming “NCPP and You Listening Session” and invited Commissioners to attend.

DNR UPDATE & EXPENDITURES REPORT

Tim Freed reviewed the NRC Fund Expenditures and Cash Funds Balances and reported the June 30, 2018, Water Sustainability Fund cash fund transfer will be reduced to \$9,170,000 as a result of LB 945. LB 944 & LB 945 also reduced:

- NSWCP by \$37,627 in FY18 and \$75,255 for FY19.
- RDF by \$62,807 in FY18 and \$125,613 for FY19.
- WSF no change in FY18, but the transfer was reduced to \$9,170,000.
- SWFCF the entire unobligated balance is to be transferred to the General Fund, most likely on July 2, 2018.

NRD EROSION & SEDIMENT CONTROL PROGRAM

North Platte NRD staff submitted an amended Erosion & Sediment Control Program for Commission review and Director Fassett’s approval. The amendments were based upon the template that the Commission reviewed in 2016 and the amendments were similar to those previously reviewed and approved from other NRDs.

Fornoff moved and Knutson seconded the motion to recommend the Director approve the North Platte NRD’s amended Erosion & Sediment Control Program.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	23	0	0	3

PROGRAM COMMITTEE

Because the Program Committee did not meet, staff led the discussion on agenda topics pertaining to program activities. No unusual activity was reported during review of status reports for the following funds.

Resources Development Fund

- Status report reimbursements and balances were reviewed.

- Staff reported transferring \$5,100 out of Component #4 Construction; and into Component #3 R-O-W (Land Rights) within the Western Sarpy/Clear Creek project to facilitate reimbursement under Title 256, Chapter 4, #12.
- Staff reviewed the 105th Legislature’s 2nd session budget and cash transfer reduction of \$62,807 General Fund dollars; reimbursement requests on hand; and the FY19 RDF budget of \$3,014,712.

Motion by Smathers, seconded by Reynolds to authorize staff to modify project components as necessary for FY18 and FY19 obligation adjustments.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	23	0	0	3

- Staff reviewed the Lower Platte North NRD (LPNNRD) request to continue operation of the borrow pit located within the Lake Wanahoo project. That operation generates a return to the RDF fund in the amount of 60% of the total revenue. The proposal continues the current charge of \$1/cubic yard for two years, then increases the rate to

\$1.15 / cubic yard. It was noted that the need to cease operation and reestablish CRP grasses prior to project close-out may become an issue depending upon when the project becomes eligible to be closed-out.

- Eric Gottschalk, Manager, LPNNRD, told the Commission they have a limit on the number of acres available to be open (without vegetation) by the contractor at any one time.

Motion by Knutson, seconded by Dunbar to approve the Lower Platte North NRD’s request to continue operation of the existing borrow pit (with 60% of the total revenue being returned to the Resources Development Fund) as outlined in the “LAKE WANAHOO SOIL BORROW AGREEMENT Between LOWER PLATTE NORTH NATURAL RESOURCES DISTRICT And M.E. COLLINS CONTRACTING CO., Inc.” until either 1.) The Sand Creek Environmental Restoration project close-out with the United States Corps of Engineers, or 2.) December 31, 2021; whichever comes first.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	23	0	0	3

- Staff described the LPNNRD request to change the plan of development for the Lake Wanahoo project to include a public Education/Recreation facility on the east side of the Lake.
- Eric Gottschalk, Manager, LPNNRD, told the Commission LPNNRD would like to pursue education of both students and adults through recreation utilizing an outdoor class room approach with a climate controlled facility for year-round presentations and activities. The facility may generate rent depending upon the situation. Operation and maintenance of the facility would be the LPNNRD’s responsibility, approval of this request will increase the district’s operating cost of the project.

Motion by Kraus, seconded by Reynolds to approve the Lower Platte North NRD’s request to Change the Plan of Development for the Lake Wanahoo project to include a Recreation/Education facility.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers			X	
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	22	0	1	3

- LPNNRD reported hay sales revenue of \$39,194.79 since last true-up on June 16, 2015 (RDF share @ 60% = \$23,516.87); and borrow pit - dirt sales revenue of \$49,837 since the last true-up on January 29, 2014 (RDF share @ 60% = \$29,902.20); for a total due RDF of (\$23,516.87 + \$29,902.20) = **\$53,419.07**.

Motion by Kraus, seconded by Knutson to approve the Lower Platte North NRD hay & dirt sales true-up by reducing the Lake Wanahoo project allocation \$53,419.07; directing staff to identify an equal amount, @ 60% of invoice, within component #20 (Recreation) which will be permanently excluded from consideration as local share cost; and allow Lower Platte North NRD to retain an equal amount.

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	23	0	0	3

- Staff and Commissioners discussed RDF reimbursement requests on hand, fund year-end balance options and projected close-outs.

Motion by Kraus, seconded by Knutson to reduce funds obligated to project sponsors by \$62,807 in order to accomplish the reduced budget and cash transfer to the General Fund in accordance with the 105th Legislature, 2nd Session; and to facilitate reimbursement to project sponsors as follows:

Project	Allocation	# Component	Obligation ↑	Obligation ↓
Buck & Duck	\$323,452.32	2 Rec	\$323,452.32	
Lower Turkey	\$31,740.92	3 Land	\$31,740.92	
Pigeon/Jones	\$1,746,361.87	2 Const.	\$1,746,361.87	
Upper Prairie	(\$1,517,815.18)	2 Land		\$600,000.00
		3 Eng.		\$146,580.93
		4 Const.		\$771,234.25
Lake Wanahoo	0.00	19 Pave ENT.	\$9,248.59	
		20 Rec	\$60,518.88	
Western Sarpy	(\$716,314.40)	4 Const.		\$716,314.40

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	23	0	0	3

- Staff reviewed the FY19 RDF allocation of \$3,014,712 which is available July 1, 2018, and noted that any unused funds will be transferred into the Water Sustainability Fund as each project is closed-out.

Motion by Clouse, seconded by Shields to allocate and obligate FY19 RDF funds effective July 1, 2018, as follows:

<u>Project</u>	<u>Allocation</u>	<u>Obligation</u>	<u>Component</u>	<u>Amount</u>
Buck & Duck	\$150,000	\$150,000	#2 Rec	\$150,000
Lower Turkey	\$174,947	\$174,947	#2 Eng.	\$60,000
			#4 Const.	\$114,947
Pigeon/Jones	\$75,000	\$75,000	#2 Const.	\$75,000

Upper Prairie	\$2,159,634	\$2,159,634	#2 Land	\$755,200
			#3 Eng.	\$325,746
			#4 Const.	\$1,078,688
Lake Wanahoo	\$205,106.82	\$245,500	#20 Rec	\$245,500
Western Sarpy	<u>\$209,631</u>	<u>\$209,631</u>	#4 Const.	<u>\$209,631</u>
TOTAL	\$2,867,480.68	\$3,014,712		\$3,014,712

Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse	X				Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	23	0	0	3

Small Watersheds Flood Control Fund

- Staff noted all funding was removed in accordance with the 105th Legislature, 2nd Session. The fund will continue to be listed as an unfunded program.

Soil & Water Conservation Program Fund

- Staff noted that once the 105th Legislature, 2nd Session 2% budget reductions are incorporated into the report, some NRDs will have a negative balance. Those that have a negative FY18 ending balance will have their FY19 (July 1st) starting balance adjusted by an equal amount to account for their previous reduction.

Natural Resources Water Quality Fund

- A \$625,000 distribution was made to NRDs in February, the next distribution will be in August.

Water Well Decommissioning Fund

- Very limited activity was reported since the last Commission meeting.

Water Sustainability Fund

- Staff reviewed the financial report listing each project's grant, reimbursement and current balance. Barels noted the need to roll unused project close-out balances back into the "available to commit" account once projects are completed and list completed projects in some manner.
- Staff reported Governor Ricketts had signed the Water Sustainability Fund (WSF) rule amendments to Title 261. Corresponding changes were drafted for the 2018 WSF application and WSF Guidelines. The changes were distributed and reviewed with Commissioners. The revised 2018 WSF application is available on the NRC website. The revised Guidelines will become available on the NRC website once reviewed and approved by the Director.

Comprehensive Planning Committee

- Chairman Barels reported the Comprehensive Planning Committee met on April 5, 2018. The major accomplishments of the Committee included:
 - 1.) Provided comments and feedback to some of the changes just described with the WSF Guidelines and application gearing-up for approval and implementation of Title 261 amendments.
 - 2.) Discussion regarding the requirement to obtain permits prior to submitting an application. This had been proposed within the current Title 261 changes, but removed prior to approval of the final draft.
 - 3.) After discussion, the group decided not to pursue legislative action at this time regarding the proposed addition of chapter 5 to Title 261, separating fee title purchases and easement purchases into separate chapters.

- 4.) review of additional proposed changes to DNR rules Titles 257, 259, 262, & 263 which were emailed to Commissioners for their review, prior to this meeting. Those changes either removed sections that were direct quotes from statute and inserted a reference to the statute, or changed the word “shall” to the word “will” as requested by the Governor’s executive order. Also, title pages were changed to transfer the rules from Department rules to Commission rules because it was noted the statutes give the Commission the authority to implement these titles. Barels then reviewed a proposed timeline for completing the revisions by early in 2019, starting with the release of the proposed changes to the public now with a public information meeting in Lincoln during June (21).
- Sievers summarized additional changes as updates to become consistent with current practices.

Motion by Czaplewski, seconded by Knutson to authorize staff to distribute the proposed draft rules changes for public comment. Motion Passed.

Commissioner	Aye	Nay	Abstain	Absent	Commissioner	Aye	Nay	Abstain	Absent
Amen	X				Rains	X			
Anderson				X	Reynolds	X			
Barels	X				Schroer	X			
Batie	X				Shields	X			
Clouse				X	Smathers	X			
Czaplewski	X				Smith	X			
Deines	X				Steffen				X
Dunbar	X				Strauch	X			
Fornoff	X				Sugden	X			
Hadenfeldt	X				Taylor	X			
Halligan	X				Thompson	X			
Knutson	X				Wilke	X			
Kraus	X				Wright				X
					TOTALS	22	0	0	4

Legislative Committee

- Chairman Dunbar reviewed plans to reintroduce legislators to the Water Sustainability Fund by highlighting some of the major projects' accomplishments with brief presentations by sponsors. The meeting would likely be held somewhere like Mahoney Park this Fall and invitations would be sent to each member of the legislature. Dunbar will also follow up with pursuing a spot on the Water Round Table's docket in either February or March.

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Governor Appointees' Term Expiration


- Chairman Strauch listed six Commissioners whose terms expire May 31, 2018, and noted all had applied for reappointment. The seventh term expiring May 31 is currently vacant; that position represents Agribusiness Interests.

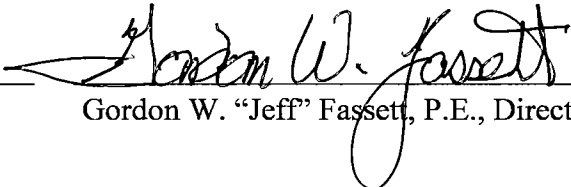
Other Business

- Katie Cameron, ENWRA Coordinator, invited Commissioners in a May 15, 2018, email to view the AEM helicopter flight take-off.
- Nemaha NRD announced the Grand Opening for the Duck Creek site in a May 4, 2018, email and invited Commission members to the Dedication on June 2, 2018.
- Commissioners were encouraged to take advantage of these opportunities if they are interested in them, but were cautioned about the issue of a quorum at either event and told that attendance was optional and would be at their own expense.

Adjournment

- The meeting was adjourned at 2:18 p.m.


Dennis Strauch, Chairman


Gordon W. "Jeff" Fassett, P.E., Director
